



APPROVED

**BOARD OF ADJUSTMENT
CITY OF SCOTTSDALE
3939 NORTH DRINKWATER BOULEVARD
SCOTTSDALE, ARIZONA
OCTOBER 5, 2005**

REGULAR MEETING MINUTES

PRESENT: Terry Kuhstoss, Chair
Jennifer Goralski, Board Member
Ernest Jones, Board Member
Howard Myers, Board Member
Carol Perica, Vice Chair
James Vail, Board Member

ABSENT: Neal Waldman, Board Member

STAFF PRESENT: Tim Curtis
Sherry Scott
Al Ward

1 **CALL TO ORDER**

The regular meeting of the Scottsdale Board of Adjustment was called to order by Chairman Kuhstoss at 6:03 p.m.

2 **ROLL CALL**

A formal roll call confirmed the members present as stated above.

ADMINISTRATIVE ITEMS

Discussion on changing the Board of Adjustment Rules of Procedure.

APPROVED 12-7-05 BOA

CHAIRMAN KUHSTOSS MOVED THAT THE RULES OF PROCEDURE REGARDING RECONSIDERATION BE AMENDED SO THAT THERE IS NO RECONSIDERATION BY THE BOARD. ANY APPEAL WOULD GO DIRECTLY TO THE SUPERIOR COURT. THE MOTION WAS SECONDED BY BOARD MEMBER VAIL AND CARRIED UNANIMOUSLY WITH A VOTE OF 6 (SIX) TO 0 (ZERO).

3 APPROVAL OF MINUTES

August 3, 2005 Board of Adjustment Minutes

VICE-CHAIR PERICA MOVED TO APPROVE THE AMENDED MINUTES OF THE AUGUST 3, 2005, BOARD OF ADJUSTMENT MEETING. THE MOTION WAS SECONDED BY BOARD MEMBER JONES AND CARRIED UNANIMOUSLY WITH A VOTE OF 6 (SIX) TO 0 (ZERO).

September 7, 2005 Board of Adjustment Study Session

VICE-CHAIR PERICA MOVED TO APPROVE THE MINUTES OF THE BOARD OF ADJUSTMENT STUDY SESSION OF SEPTEMBER 7, 2005. THE MOTION WAS SECONDED BY BOARD MEMBER JONES AND CARRIED UNANIMOUSLY WITH A VOTE OF 6 (SIX) TO 0 (ZERO).

September 7, 2005 Board of Adjustment Minutes

VICE-CHAIR PERICA MOVED TO APPROVE THE MINUTES OF THE BOARD OF ADJUSTMENT MEETING OF SEPTEMBER 7, 2005. THE MOTION WAS SECONDED BY BOARD MEMBER JONES AND CARRIED UNANIMOUSLY WITH A VOTE OF 6 (SIX) TO 0 (ZERO).

CONTINUANCES

3. 9-BA-2005 (Lombardi Residence) request for a Variance from Article V. Section 5.4.04.E.2 regarding the side yard setback.

BOARD MEMBER VAIL MOVED TO GRANT A CONTINUANCE OF 9-BA-2005 (LOMBARDI RESIDENCE), TO THE NOVEMBER 2, 2005, MEETING OF THE BOARD OF ADJUSTMENT. VICE-CHAIR PERICA SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY WITH A VOTE OF 6 (SIX) TO 0 (ZERO).

4. 10-BA-2005 (New Retail shops @ Fry's Marketplace), request a Variance from Article V. Section 5.1504.C1 regarding open space requirement.

VICE-CHAIR PERICA MOVED TO GRANT A CONTINUANCE OF 10-BA-2005 (NEW RETAIL SHOPS @ FRY'S MARKETPLACE) TO A FUTURE DATE. BOARD MEMBER VAIL SECONDED THE MOTION, WHICH CARRIED WITH A VOTE OF 5 (FIVE) TO 1 (ONE). CHAIRMAN KUHSTOSS DISSENTED.

REGULAR AGENDA

5. 8-BA-2005 (Wilkins Residence) Request for a Variance from Article V. Section 7.200.B.3.a & d regarding eaves and covered porches in the required yard.

Mr. Ward presented the case per the staff packet. Highlights of the presentation included aerial photos of the subject property, an outline of the zoning ordinance requirement, and a photo of the canopy. Mr. Ward outlined the specific criteria relating to the variance. He noted that there are letters of support and objection to the variance from the neighbors; 22 signatures are in favor, and 18 are opposed. An additional 15 verbal approvals were noted by the Applicant. Concerns focused on esthetics and fire safety.

Board Member Myers asked how the depth of the back yard compares to others in the same subdivision. Mr. Ward reported that the subject property is similar to other lots in the area.

In response to a question by Board Member Myers, Mr. Curtis confirmed that an adjustable shade attached to the eaves would be permitted, as long as it remained adjustable.

In response to inquiry by Board Member Goralski, Mr. Ward explained the Applicant's proposed plans. Board Member Vail requested clarification about the setbacks.

Steven Wilkins, Applicant, addressed the Board. Board Member Vail inquired as to when the sun was an issue. Mr. Wilkins explained that because the house has an east-west exposure, shade is needed when the sun is high, from noon on.

In response to a question from Board Member Goralski, Mr. Wilkins confirmed that he had used a general contractor for the addition, but he had built the patio himself. Mr. Wilkins explained that he had seen similar patio structures in the subdivision and because there was no electrical or plumbing felt that a permit would not to be obtained.

Mr. Weber addressed the Board, expressing favor for the project.

Ms. Niedzielski addressed the Board, requesting that the project be kept in code due to the size of the lots.

Chairman Kuhstoss offered the Applicant an opportunity for rebuttal, which he declined.

Board Member Myers opined that there are other options available and he, therefore, is reluctant to support the variance request.

Board Member Goralski stated belief that the criteria had not been met and that she would not support the variance request.

Vice-Chair Perica agreed with her fellow Board Members, noting that this request does not meet the criteria. She is opposed to granting the variance.

Board Member Vail expressed disappointment that the many people who had expressed opposition had not taken the time to attend the meeting. He further stated that he could not support the variance.

Board Member Jones remarked that while the request is not in total compliance with the criteria, he believed it meets most of the criteria and he is in favor of granting the request.

Chairman Kuhstoss expressed belief that the criteria had not been met. She found the letter from the immediate neighbor persuasive, and would not support the request.

BOARD MEMBER VAIL MOVED TO DENY 8-BA-2005 (WILKINS RESIDENCE). THE MOTION WAS SECONDED BY BOARD MEMBER GORALSKI. THE MOTION CARRIED WITH A VOTE OF 5 (FIVE) TO 1 (ONE), WITH BOARD MEMBER JONES DISSENTING.

ADJOURNMENT

With no further business to discuss, being duly moved and seconded, the meeting adjourned at 6:50 p.m.

Respectfully submitted,
A-V Tronics, Inc.